

Title Guaranty Division Board Meeting Minutes

March 6, 2007

Board Members Present:

Berneil Preul (by phone)
Surasee Rodari
Walter Murphy
Mitchell Taylor

Staff Members Present:

Loyd Ogle, TGD Director
Matt White, TGD Deputy Director
Becky Petersen, TGD Director of
Field Operations
Lon Kobernusz, IFA Accountant
Mark Thompson, IFA General Counsel
Joanna Wilson, TGD Senior Underwriter
Susan Mock, TGD Administrative Assistant

Others Present:

Bob McCloney – Iowa Land Title Association
Vince Lintz – IFA Board President
Geraldine McLain – Union County Abstract
Gerald McLain – Union County Abstract
Chris Hoegh – Marion County Title Services
Jamie Bergkamp – Hefner & Bergkamp, P.C.
Don Guisinger – American Abstract & Title
Charles Hendricks – Attorney
Dwight Dinkla – Iowa State Bar Association
Dennis Dietz
Grant Dugdale – Attorney General's Office

Call to Order

Mr. Taylor called the March 6, 2007, meeting of the Title Guaranty Board of Directors to order at 10:33 a.m.

Review & Approval of Board Meeting Minutes

Motion: On a motion by Mr. Murphy, seconded by Ms. Preul, the Board unanimously approved the December 5, 2006, Board meeting minutes.

Review of Financial Reports, Transfer of Funds to IFA's Housing Programs, and Approval of Financial Reports

Mr. Ogle discussed the financial report. TGD's numbers for January and February were very strong, and TGD is exceeding its revenue targets. He informed the Board that \$573,000 is available for transfer to IFA's Housing Programs.

Motion: On a motion by Ms. Preul, seconded by Mr. Rodari, the Board unanimously approved the transfer of \$573,000 to IFA's Housing Programs.

Motion: On a motion by Mr. Murphy, seconded by Mr. Rodari, the Board unanimously approved the Financial Report.

Director's Report

Mr. Ogle gave the director's report. TGD has a bill relating to the Mortgage Release Program. By statute, TGD can release mortgages up to \$500,000. There have been requests to release mortgages higher than that. The bill that is in committee in the Legislature would allow the TGD Board to set the maximum amount to release mortgages.

Mr. Ogle said he has not seen a title insurance bill introduced this year.

Mr. Ogle said the Iowa State Bar Association has a bill regarding the mechanic's lien statute clarifying the 90-day deadline regarding the filing of mechanic's liens and when they take precedence over a mortgage.

Mr. Ogle gave an update on Pottawattamie County.

Commercial Department

Mr. Ogle discussed the commercial department proposal. TGD never developed a true commercial product. He wants to be able to offer to TGD members the ability to escrow, do title work, and so forth for commercial deals. TGD would have the ability to escrow and do the other work and offer it as a package.

Ms. Petersen said there were two distinct parts to the commercial department. The first part is the title side of the transaction. One challenge is TGD does not have some of the coverages available that lenders are asking for. TGD is also looking at a different reinsurer who would allow a little more flexibility as far as the types of coverage to offer. The second part of the commercial department is the escrowing part. TGD is not involved in escrowing at all. Escrowing can be simply receiving funds and wiring funds out to pay off mortgages. However, TGD also needs to look at construction escrowing, which can be more complicated. TGD is working with the accounting department to get accounts, wire capabilities, and so forth set up. TGD wants to encourage attorneys and abstractors to participate in the program and be more extensively involved in commercial transactions.

Mr. Hoegh said that commercial is a revenue pot abstractors are missing. He asked if abstractors would share in the revenue pot under TGD's proposal. Ms. Petersen said TGD does want to outsource the work and compensate abstractors for their title work and involvement in the transaction.

Mr. Ogle wanted something to take back to IFA and the IFA Board showing that the TGD Board supports developing the commercial department. Mr. Ogle said IFA ultimately approves the staffing, but that the forms and procedures would be up before the TGD Board for approval.

Motion: On a motion by Mr. Murphy, seconded by Mr. Rodari, the Board unanimously approved encouraging TGD to investigate and establish a commercial department to enhance market share.

Deputy Director's Report

Mr. Ogle gave the Deputy Director's Report for Mr. White. For this fiscal year, TGD paid a total of \$3,000 in claims. The prior fiscal year, TGD paid \$182,000 in claims, which is well above TGD's historical average. Mr. Dugdale said there are two pending claims in litigation, none of which are substantial.

Mr. Ogle noted the resolution regarding the Mortgage Release Program. The resolution updates who can sign mortgage releases. Currently Mr. White is the only staff member who can sign the releases. The resolution would allow any licensed attorney who is employed by IFA or TGD to be the signator on the releases. The resolution is as follows:

"RESOLUTION

"WHEREAS, the Iowa Finance Authority is a public instrumentality and agency of the State of Iowa established and empowered by the provisions of Chapter 16 of the Code of Iowa, 2007, as amended, to issue mortgage release certificates pursuant to 2007 Iowa Code §16.92 on real property located in the State through its Title Guaranty Division (the "Division"): and

"WHEREAS, Iowa Finance Authority Rule 265, Chapter 9.20 (11) states that the board of directors of the Division may, by resolution, authorize such persons within the Division as the board should determine to execute and record the certificates pursuant to 1999 Iowa Acts, chapter 54, and the corresponding rules, and

"WHEREAS, it is necessary and advisable that authority be granted to representatives to sign documents presented in connection with the foregoing mortgage release certificate program.

"NOW, THEREFORE BE IT RESOLVED By the Board of the Title Guaranty Division :

"1. That any employee of the Iowa Finance Authority or its Title Guaranty Division that is an attorney licensed to practice law in Iowa, in connection with Iowa Code §16.92 and Iowa Finance Authority Rule 265, Chapter 9.20, are authorized to sign on behalf of the Division, certificates of release and such other documents related thereto.

"2. All previous resolutions or parts of resolutions in conflict with this resolution are hereby repealed to the extent of such conflict."

Mr. Ogle noted a grammatical error in the second-to-last paragraph, third line. The word following Chapter 9.20, "are," needs to be "is." Mr. Ogle requested that the resolution be amended to show the correction.

Motion: The Board unanimously approved the resolution.

Field Operations Director's Report

Mr. Ogle went over the report that Linda Berg, TGD's Business Development Director, prepared. Ms. Petersen also discussed Ms. Berg's report. She noted that Ms. Berg is talking with lenders who retain a significant portion of their loans in-house and do not sell them on the secondary market about the benefits of Title Guaranty. She said a selling point is the free owner's coverage. This way, for \$110, not only is the lender protected but so is the borrower. She said that is going over very well. She hoped this would be a new source of revenue for TGD.

Ms. Petersen also gave the Field Operations Director's Report. She has been working on a compliance program. There are several facets to compliance. One of the big parts of compliance is training. To that end, TGD has introduced the first round of Title Guaranty Regional Academies. The academies will be offered at four locations throughout the state. TGD is looking to provide a solid day of real estate education for its attorneys and abstractors. TGD also continues to provide training on its Computer Application Processing (CAP) system. The other part of the compliance program is audits. Since TGD pulled out the Closing Protection Letter program, TGD needs to do due diligence and get out in the field and make certain things are being done properly. TGD will start doing field audits for some of its top issuers involved in the CPL program.

Ms. Petersen said TGD has redesigned its Web site. There is now more of an interactive search tool available for anyone to use.

Mr. Ogle said that the Attorney and Abstractor Questionnaires went out. Ms. Petersen said TGD sent out about 2,200 questionnaires, and TGD has not heard from about 900 of them.

2006 Forms

Mr. Ogle said TGD used the 1970 ALTA Forms. When ALTA developed forms in 1992, TGD declined to adopt those forms because the coverage was not as good as that provided in the 1970 Forms. The ALTA ultimately developed the 2006 Forms. These forms are a big improvement over the 1992 Forms in providing as good of coverage as the 1970 Forms. Last year, TGD started conforming the 2006 Forms to Iowa law and worked with the ILTA and the Bar Real Estate Section on them. He said the plan to implement the new forms is April 1, in conjunction with the rollout of the new owner's program.

Ms. Wilson presented the revised 2006 ALTA Forms. The lender's and owner's forms are being updated. They can be used for residential and commercial. There are short forms that TGD decided not to adopt because at any time the lender could decide that the attorney had to convert it to the regular form, if the lender wished, for no cost.

Ms. Wilson also noted some changes to the Forms. On the owner/lender jacket, TGD deleted the last sentence, which was the sovereign immunity clause. Usually the state puts the sovereign immunity clause on all its contracts. TGD is a little different than most state agencies, and TGD offers a product out in private enterprise. TGD would not deny a claim based on sovereign immunity. Also, by having such as clause, it would make TGD's certificates unsellable on the secondary market.

Ms. Wilson noted the changes made to the tax exception clause. The due dates of the semi-annual tax installments and the dates when the semi-annual tax installment would become delinquent were added.

Ms. Wilson said there was an endorsement, Easement, Damage, Use or Maintenance Endorsement, that accidentally was put in the forms. The Comprehensive Endorsement 1 and 2 both provide that coverage, so there is no need for that endorsement.

Ms. Wilson noted a small change to the Note For Information on the commitment in regard to the buyer being able to elect the owner's certificate. The change was more descriptive in explaining that a buyer of a primary residence may elect to receive a free owner's certificate if the purchase amount is \$500,000 or less.

Ms. Wilson gave some of the highlights of the changes in the forms. Some of the guaranteeing clauses were found in the exclusion section of what was not covered in the certificate. The new jackets take all the exclusions and put them in the Covered Risks or the guaranteeing clauses. It makes it easier to read. Also, many courts around the country would only look to the insuring clauses on the policies and would look no further back to the exclusions. Some lenders and owners have lost cases because of this.

Ms. Wilson noted there was inclusion of more guaranteeing risk. Before, the guaranteeing provisions were very broad. It was understood around the country that certain things were provided. Now they are specifically mentioned.

Ms. Wilson said another thing that was added was express survey coverage. Mechanic lien claim coverage is more clearly stated. There are new and expanded definitions. She also noted some changes in Schedules A and B.

Motion: On a motion by Mr. Rodari, seconded by Mr. Murphy, the Board unanimously voted to approve the 2006 Forms.

Waiver Request

In regard to the 40-year waiver request by Mr. Hendricks, Mr. Ogle said it was a staff recommendation that the request be postponed until the next TGD Board meeting. TGD's practice and standard in terms of due process of the waiver requests is that each waiver is treated the same. TGD does not have in writing the process to go through on waivers, but there is in place a well-established practice of how the waivers are handled. For the next meeting, staff will articulate what past practice has been for Board discussion.

Mr. Ogle said that deferring Mr. Hendricks' waiver request will allow all supporting documentation and waiver to be submitted and allow opportunity for people to comment on the application and to provide written comment to the Board. He recommended that the Board hold a special meeting for the purpose of hearing this waiver request. Mr. Murphy said the Board has never had to hold a special meeting for waiver requests and that they have always had time to discuss them. Mr. Hendricks said that he would prefer the Board to discuss his request at a special meeting because it is having an impact on his legal practice.

Motion: On a motion by Mr. Rodari, seconded by Mr. Murphy, the Board unanimously voted to table Mr. Hendricks' waiver request until the next regularly scheduled meeting.

Next Meeting Date and Time

The next Board meeting will be June 5, 2007, at 10:30 a.m.

Other Items

Mr. Dinkla addressed the Board. He congratulated TGD on its Web site. He also asked how new titleholders will be made aware that TGD's owner's policies are free. Ms. Wilson and Mr. Ogle explained that new titleholders will specifically elect or deny coverage via the Composite Mortgage Affidavit. Mr. Dinkla applauded the Board on the free owner's coverage. Mr. Dinkla also discussed the Standards in Excellence program.

Adjournment

Motion: On a motion by Mr. Rodari, seconded by Mr. Murphy, the Board unanimously voted to adjourn at 11:56 a.m.

Dated this June 5, 2007,

Respectively submitted:

Approved as to form:

Loyd W. Ogle, Director
Title Guaranty Division

Mitch Taylor, Chair
Title Guaranty Division